25th Congress, 1st Session. [Doc. No. 31.] Ho. of Reps. Executive.

NORTHEASTERN BOUNDARY.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

The information required by the resolution of the House of the 13th instant, upon the subject of the Northeastern Boundary of the United States.

SEPTEMBER 26, 1837.
Read, and laid upon the table.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, accompanied by copies of the correspondence requested by their resolution of the 13th instant.

M. VAN BUREN.

WASHINGTON, *September* 26, 1837.

DEPARTMENT OF STATE,
Washington, September 25, 1837.

The Secretary of State, to whom was referred the resolution of the House of Representatives dated the 13th instant, requesting the President to communicate to that body, "so far as the public interest will permit, the correspondence between the Government of the United States and that of Great Britain, relating to the Northeastern boundary of the United States, since the message of the late President to the Senate of the United States of the 15th of June, 1836, and all the correspondence which has taken place since that period between the Government of the United States and the Governor of the State of Maine, on the subject of alleged aggressions upon the rights of Maine by the British authorities," has the honor respectfully to submit to the President copies of the letters and documents requested by that resolution.

JOHN FORSYTH.

Thomas Allen, print.

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LIST OF ACCOMPANYING PAPERS.

Letter from the Governor of Maine to the Secretary of State, (with enclosures,) dated	-	March 30, 1837.
Same to the President (with enclosures)	-	April 30, 1837.
Same to same (with enclosures)	-	June 27, 1837.
Same to same (with enclosure)	- -	June 19, 1837.
Secretary of State to the Governor of Maine	-	June 26, 1837.
Governor of Maine to the Secretary of State (with enclosures)	- - - -	July 3, 1837.
Secretary of State to the Governor of Maine	-	July 14, 1837.
Governor of Maine to the Secretary of State	-	June 27, 1837.
Secretary of State to the Governor of Maine	-	July 19, 1837.
Governor of Maine to the President	- -	July 28, 1837.
Secretary of State to the Governor of Maine	-	Aug. 17, 1837.
Same to same	- - - -	Aug. 25, 1837.
Mr. Forsyth to Mr. Fox	- -	March 23, 1837.
Mr. Fox to Mr. Forsyth	- -	March 28, 1837.
Same to same	- - - -	Aug. 24, 1837.
Extract from Mr. Stevenson to Lord Palmerston		Aug. 10, 1837.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, *Augusta*, *March* 30, 1837.

SIR: In compliance with a request of the Legislature of this State, I have the honor to transmit to you the accompanying report and resolutions. I am, very respectfully,

Your obedient servant,

ROBERT P. DUNLAP.

The SECRETARY OF STATE.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, *March* 29, 1837.

The Joint Select Committee who had under consideration the Order relating to the expediency of calling the attention of Congress to the subject of fortifying our maritime and interior frontier, have attended to that duty, and ask leave to present the following report:

One object of the Federal compact is "to provide for the common defence and general welfare."

In accordance with these objects of the compact, the General Government has, from time to time, made liberal appropriations for fortifying and defending the several States along our extended maritime frontier, west and south of the western boundary line of this State; east of that line, a mere trifle has, as yet, been appropriated for these objects.

Maine has a maritime frontier of about five hundred miles in extent, following the indentations of her shores; and our interior frontier, bound-

ing on New Brunswick on the east and the Canadas on the north, is about six hundred miles in extent.

Considering this great extent of seacoast, her numerous excellent harbors, her noble rivers, and great advantages for ship-building, and her proximity to the fishing grounds, probably no State in the Union possesses the natural advantages for carrying on this branch of industry that Maine does.

It is a fact worthy of consideration, that all maritime nations have looked to their fisheries as the nursery of hardy seamen for the merchant service in time of peace and for the navy in time of war; and, as a great question of national policy, (aside from the inducement to encourage this branch of business as an unfailing source of natural wealth,) it is deemed worthy of the fostering care of all commercial nations.

Already the navigation of Maine is estimated at more than three hundred thousand tons, and exceeded by only two States in the Union; and her increase, annually, of tonnage, is greater than that of any other State.

The abundance of building materials, believed to be inexhaustible, her great conveniences for ship-building along her extended seacoast, her numerous bays, rivers, and harbors, render it highly probable that the day is not far distant when the maritime interests of Maine will exceed that of any of her sister States. And if reliance can be placed upon the statements of a scientific engineer of high respectability and standing, who has, during the past year, under the direction of the Government of this State and our parent Commonwealth, made a geological survey of a portion of our State, it may be doubted whether the same extent of territory on the continent contains more real value, viewed in all its bearings, (the facilities of quarrying, manufacturing, exporting, and its influence upon the great interests of the State and nation,) than is contained in our inexhaustible quarries of granite, lime, marble, slate, &c., mines and minerals, in which large and profitable investments are already made. Some of these branches of business have been carried on for many years, and others to a large extent are commencing under the most favorable auspices.

These, together with our agricultural, commercial, and manufacturing interests; our immense forests of invaluable timber; with a water-power of vast extent and value; giving us the means of laying the seaports of the Union under a contribution for ages to come, and warranting the belief that our present shipping interest will be sustained and employed, and a great increase required.

About one-third of the most valuable portion of our territory is claimed by Great Britain; and the history of this protracted controversy, from its commencement to the present time, is such as to awaken general anxiety. We are admonished, by recent events, that we have not yet reached the termination of our toils and embarrassments; and they have awakened the painful apprehension that our just rights may not be secured by honorable negotiation or patient submission to unprovoked injuries. These considerations, in the opinion of your committee, call loudly for the interposition of the General Government, and require at their hands all needful preparation for possible contingencies. The late Governor Lincoln, nearly ten years since, called the attention of the Government to the importance of erecting a strong fortification in some eligible position on the confines of that portion of our territory to which an adverse claim is set up by Great

Britain. In the opinion of your committee, the subject has lost none of its interest since that period, but on the contrary, the events to which we have alluded give to it vastly augmented importance; and, to our view, irrespective of any conditions growing out of the present controversy, a strong fortification upon the Northeastern boundary of the United States, situated far in the interior, and upon the confines of a foreign country, and surrounded by millions of acres of fertile land, destined soon to be peopled with a numerous population of hardy yeomanry, is of high importance.

Our isolated situation, being the Northeastern boundary of the nation, with an interior frontier of upwards of six hundred miles upon a foreign country, and a large proportion of our territory lying between two provinces of Great Britain, and so situated as to render it greatly to the advantage of that nation to possess it; the inflexible determination which she manifests to pursue the course which interest dictates should not be forgotten. The extent of our seacoast, the exposed situation of our seaport towns, lying within a few hours' sail of the British naval depot in the neighborhood of Maine, the disastrous consequences of our defenceless situation during the last war, the great and increasing maritime interests which we have at stake, without one single point where a ship, if dependent upon the United States fortifications, would be safe from the attacks of a frigate: these, and the consideration that little comparatively has yet been done for Maine, seem to our view to constitute irresistible reasons why Maine should no longer be forgotten or neglected in the common defence of the country,

Through all the long-protracted struggles, difficulties, and embarrassments of our infant republic, this portion of our Union has never been urgent or importunate in pressing its claims, but has submitted patiently to the force of circumstances which rendered it necessary to defer them.

But, in the present altered condition of the country; the national debt paid off; at a season of universal peace and unexampled prosperity; with an overburdened treasury, and when it is deemed necessary, to dispose of it, to resort to measures which many eminent statesmen consider unwarranted by the constitution, and which a great portion of the people of the Union consider of doubtful policy: at such a period, and under such circumstances, it is difficult to perceive the justice of longer withholding suitable appropriations for the defence of Maine; and, to our view, they can only be withheld by doing violence to the principles of equal rights, and by neglecting a plain constitutional duty.

Your committee therefore submit the following resolutions.

STEPHEN C. FOSTER, *Chairman.*

STATE OF MAINE.

Resolve relating to the fortification of frontier States.

Resolved, That the obligation of the Federal Government, under the constitution, when it has the means, to erect suitable fortifications for the defence of the frontier of the States, is a practical duty, not justly to be denied, evaded, neglected, or delayed.

Resolved, That our Senators in Congress be instructed and our Repre-

sentatives requested to use their influence to obtain liberal appropriations for the defence of Maine and the Union.

Resolved, That the Governor be requested to transmit copies of the above report and resolutions to the President and Vice President, the Secretaries of State, Navy, and War, and to each of our Senators and Representatives in Congress.

In the House of Representatives, March 30, 1837.
Read and passed.

H. HAMLIN, *Speaker.*

In Senate, March 30, 1837.
Read and passed.

J. C. TALBOT, *President.*

March 30, 1837. Approved:

ROBERT P. DUNLAP.

STATE OF MAINE.

EXECUTIVE DEPARTMENT,
Augusta, April 30, 183 .

SIR: In compliance with a request of the Legislature of this State, I have the honor to transmit to your excellency the accompanying report and resolutions.

In behalf of the State of Maine, I would respectfully, yet urgently, call on the President of the United States to cause the Northeastern boundary of this State to be explored and surveyed, and monuments erected, in accordance with the request contained in the resolutions which are herewith communicated. As the subject is one in which the people of Maine have a deep interest, I feel a confidence it will commend itself to your early attention.

With high consideration,
I have the honor to be,
Your obedient servant,
ROBERT P. DUNLAP.

His Excellency MARTIN VAN BUREN,
President of the United States.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,
February 2, 1837.

The Joint Committee to whom were referred so much of the Governor's message as relates to the Northeastern boundary, and the documents and evidence, together with an order of the two Houses instructing the committee "to inquire into the expediency of providing by law for the appointment of commissioners on the part of this State, by the consent of the Government of the United States, to survey the line between this State and the

Province of New Brunswick, according to the treaty of 1783, to establish monuments in such places as shall be fixed by said commissioners and by commissioners to be appointed on the part of the Government of Great Britain," have attended to the duties assigned them, with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time, and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented; but as there had been hitherto so much procrastination, and the impatience of the public, already great, was becoming more and more intense, your committee, without further preamble or apology, ask leave to present the following report:

The Legislature and people of Maine, we believe, will not contend that the treaty-making power of the United States does not extend to a final adjustment of a disputed and undefined line of boundary between a State and a foreign nation. *But we do insist* that no power is granted by the constitution of the United States to *limit* or *change the boundary of a State or cede a part of its territory without its consent.* It is even by no means certain how far *such consent* would enable the treaty authority to exert its powers. *Citizens* might be made the subjects of a treaty transfer, and these citizens, owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign Government, to *sell* him, might well be questioned, as being inconsistent with the spirit of our free institutions. But, be this as it may, Maine will never concede the principle that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission, given by its constitutional organs.

Your committee, however, deem it but fair to admit that they have discovered no inclination in the General Government, or any department of it, to assume this power. On the contrary the President has repeatedly declined the adoption of a conventional line deviating from the treaty of 1783, upon the express ground that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say, that the committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the treaty of 1783, up to the 29th February, 1836, and we are well assured that no proposition for a different boundary has since that time been made to any department of the Government of this State.

The President of the United States, on the 15th June last, communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the Northeastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred by the provisions of the treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz: *the Northeastern boundary*, the *northwesternmost head of Connecticut river*, and the *forty-fifth parallel of latitude*, he seems to have determined *but one.* He did decide that the source of the stream running into and through Connecticut lake, is the true northwest head of that river, as in-

line of the province of Quebec, so ar frow *altering* this N. W. angle, in fact confirms it.

In perfect accordance with this disposition to encroach, is a proposition of the British minister, (Mr. Vaughan,) that inasmuch as the highlands cannot be found by a due north direction from the monument, we should *vary west* until we should intersect them, *but not* EAST ! Now that, in case a monument cannot be found in the course prescribed, you should look for it *at the left, but not to the right*, seems to us a very *sinister* proposition. We have shown, and, as we think, conclusively, that the range of highlands is to be looked for on British ground, and nowhere else; because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own provinces. And yet we are not to examine there at all ; we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions !

We would ask, why, in what justice, if we cannot find the object in the route prescribed, are we to be thus trammelled ? where is the *reciprocity* of such a proposition, so degrading to the dignity and insulting to the rights and liberties of this State ? No ! the people of Maine will not now, and we trust they never will, tamely submit to such a *one-sided* measure.

The next restriction or limitation with which this negotiation is to be clogged, is an admission that the Ristigouche and St. John's are not Atlantic rivers, because one flows into the bay de Chaleurs and the other into the bay of Fundy, yet neither falls into the river St. Lawrence. They would then find those highlands between the St. John's and the Penobscot. There cannot be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded, as flowing *neither way*, still the waters that flow *each way* are so far separated as to leave a tract of country which, if equally divided, would carry us far beyond the St. John's. But we admit no such hypothesis. The *Atlantic* and the *sea* are used in the charters as synonymous terms. The Ristigouche, uniting with the bay de Chaleurs, which communicates with the sea, and the St. John's, uniting with the bay of Fundy, which also communicates with the sea, and that, too, by a mouth of ninety miles wide, are both Atlantic rivers. These rivers were known by the negotiators not to be *St. Lawrence rivers;* they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic, why were they not excepted ? They were not of the former, therefore they must be included in the latter description. Indeed, if rivers uniting with Atlantic bays are not Atlantic rivers, the Penobscot and Kennebec, which unite with the respective bays of Penobscot and Sagadahock, would not be Atlantic rivers ; and then, where are these highlands which divide the waters referred to in the treaty of 1783 ? Should we leave this question unsettled a little longer, and the British claims continue to increase, we might very soon find these highlands south of the Connecticut, and all the intermediate country would be *recolonized* by "construction." We therefore invoke the sympathy of all New England, with New York besides, to unite against this progressive claim—this avalanche, which threatens to overwhelm *them as well as ourselves.*

Again, if this Mars Hill (and we confess we cannot speak of the pre-

tension with any patience) *is the northwest angle,* and the north boundary of Nova Scotia and the south boundary of the province of Quebec are the same, and north of the bay de Chaleurs, then there is indeed *no* northwest angle; for a line due north from the monument, passing by Mars Hill, must pursue nearly the same direction to get to the north of that bay without crossing it; and whoever thought of an angle at the side of a continuous line? Now, according to the British maps, taken in this very case, you must run a course of north about fourteen degrees east to obtain the north side of the bay without crossing it, and the distance would be, in this almost due north direction, more than one hundred miles, while that from the monument to Mars Hill would be little more than forty. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the bay de Chaleurs, that this is one hundred miles farther north than Mars Hill, where, instead of an angle, there can be only an inclination of fourteen degrees, can there be a greater absurdity than the British claim, founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the 5th article of the treaty of Ghent: and the first fact that occurs is, that the elevations taken by the British surveyor stop far short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining *he was still ascending*, and had, in fact, arrived at the lands at *a branch of a river* elevated five hundred feet above the summit of Mars Hill, *found it prudent to stop short,* we see no good reason why the American agent did not *proceed on* and take accurate elevations at a place where the waters divide. If such a survey was made the committee have not been able to obtain the evidence; it is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Ristigouche. It is, indeed, a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence *to the left,* and *especially to the right* of the north line from the monument.

We know some of them, to be sure, such as the *Oelle, Kamonska, Verte, Trois Pistoles, Remouskey*, and *Metis*, on the left, and the *Blanche, Louis, Magdalen*, and others, on the right of this line, but we know them chiefly as *on maps*, and as transcribed from older maps, but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary, the north shore of the bay de Chaleurs, would accurately define the divisional line between the province of Quebec and Nova Scotia, which, extending west, would intersect the due north line, and thus form the northwest angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands *east* of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is, indeed, the true source of inquiry. In this direction the evidence is to be found; and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—

that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we cannot subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims, is what is only known to himself, and, consequently, the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would, in this case, apply most unfortunately to Maine. We are limited, at farthest, to the St. Lawrence, and to a very narrow point there, while the British may extend their claims to the south and west indefinitely. Establish this principle and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally both as to *qantity* and *quality*, the divisional line then would fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us of such a rule, as manifestly unequal and unjust.

We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home; and we regret to perceive in them, also, those strong indications of continual and rapid encroachment which have characterized that Government in the whole of this controversy. Mr. Livingston, in his letter of the 21st of July, 1832, proposes that, "until the matter be brought to a final conclusion, both parties should refrain from the exercise of jurisdiction;" and Mr. Vaughan, in reply of 14th April, 1833, in behalf of his Government, "entirely concurs." Here, then, the faith of the two Governments is *pledged* to abstain from acts of jurisdiction until all is settled. Now how are the facts? We understand, and, indeed, it appears by documents herewith exhibited, that an act has passed the Legislature of New Brunswick, "incorporating the St. Andrew's and Quebec railroad company;" that the King has granted £10,000 to aid the enterprise, and that the Legislature of Lower Canada, by its resolutions of both Houses, has approved the scheme and promised its co-operation. It may be that the Government at home was not aware that this railroad must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A railroad from St. Andrew's to Quebec would be *impossible* unless it crossed the territory in question—even next to impossible and totally useless were it to pass at the north of the St. John's. It seems therefore extraordinary indeed, that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a railroad corporation powers over our rights and property is the strongest act of sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution, and with guarded restrictions and reservations. This railroad must not only cross the disputed territory, but it crosses it fifty miles south of the St. John's, and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited of the survey of the route, it appears that the road crosses our due north line at Mars Hill, thence doubling round it towards the south, it crosses the *Roostic* between the Great and Little *Machias*, the *Alleguash* at the outlet of *First Lake*, a branch of the St. John's south of *Black river*, and passes into Canada

bewteen "Spruce Hills" on the right, and "Three Hills," on the left, thus crossing a tract of country south of the St. John's, one hundred by fifty miles. We have not a copy of the act of incorporation of New Brunswick, and cannot, therefore, say that the route there defined is the same as on the map. Be this as it may, certain it is, as any one will see, that no possible route can be devised which will not cross the territory in question. It is, then, a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our inquiries and examinations of this subject there has been great negligence in regard to this N. W. angle. Judge Benson, one of the commissioners under Jay's treaty, in a letter to the President of the United States, expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix, is *the west side line*, and the highlands are *the north side line* which form this angle, and this had never been questioned by the British themselves.

This due north line, viz: the west side line, was established by the commission of which Judge Benson was a member, and the British have made the north side line to be north of the bay de Chaleurs, and yet with these postulates, to pretend that the points of intersection cannot be found, is one of the greatest of their absurdities. And another absurdity quite equal is, that, after passing west along the north shore of this bay, they would fall down nearly south more than one hundred miles to Mars Hill, about sixty miles from the south shore of the province, at the bay of Passamaquoddy, which is a part of the bay of Fundy; and this point too of so little inclination, that it is a palpable perversion of language to call it *an angle*, much more a N. W. angle.

It is indeed time for us to begin to search, and in the right places too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia, which is the south boundary of the province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work, with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and, if they refuse, our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be *to ascertain facts*; much more pacific than the survey, *without notice*, of the St. Andrew's and Quebec railroad, through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness, and candor, which our time, means, and feelings would allow. Our animadversions may, in some instances, have been strong, and even severe, but we think we have expressed the sentiments and feelings of the people of Maine, suffering under protracted injuries. This State should take a firm, deliberate, and dignified stand, and one which it will not retract. While it awards to the General Government all its legitimate powers, it will not be forgetful of its own. We call upon the President and Congress; we invoke that aid and sympathy of our sister States which Maine has always accorded to them; we ask, nay, we de-

mand, in the name of justice, HOW LONG we are to be thus trampled down by a foreign people? and we trust we shall meet a cordial and patriotic response in the breast of every republican of the Union.

Your committee, therefore, submit the following resolutions.

L. J. HAM,
NATH'L S. LITTLEFIELD,
SAMUEL P. BENSON,
EBENEZER HIGGINS,
JOHN R. REDMAN,
} *of the Senate.*

JOHN HOLMES,
J. A. LOWELL,
NATHAN IDE,
DANIEL SMALL,
SEWALL PRESCOTT,
EPHRAIM WEEKS,
JAMES BURBANK,
CHARLES HUNT,
JOHN D. RICHARDS,
} *of the House.*

STATE OF MAINE.

Resolves relative to the Northeastern Boundary.

Resolved, That we view with much solicitude the British usurpations and encroachments on the Northeastern part of the territory of this State.

Resolved, That pretensions so groundless and extravagant indicate a spirit of hostility which we had no reason to expect from a nation with whom we are at peace.

Resolved, That vigilance, resolution, firmness, and union on the part of this State, are necessary in this state of the controversy.

Resolved, That the Governor be authorized and requested to call on the President of the United States to cause the Northeastern boundary of this State to be explored and surveyed and monuments erected according to the *treaty* of 1783.

Resolved, That the co-operation of Massachusetts be requested.

Resolved, That our Senators in Congress be *instructed* and our Representatives *requested* to endeavor to obtain a *speedy* adjustment of the controversy.

Resolved, That copies of this report and resolution be transmitted to the Governor of Massachusetts, the President of the United States, to each of our Senators and Representatives in Congress, and other Senators in Congress, and the Governors of the several States

In the House of Representatives, March 24, 1837. Read and passed.

H. HAMLIN, *Speaker.*

In Senate, March 25, 1837. Read and passed.

J. C. TALBOT, *President.*

March 25, 1837. Approved:

ROBERT P. DUNLAP.

STATE OF MAINE.

EXECUTIVE DEPARTMENT,

Augusta, June 27, 1837.

SIR: I lose no time in communicating to your excellency a copy of a letter from Sir John Harvey, Lieutenant Governor of the province of New Brunswick, and also a letter from J. A. Maclauchlan to Sir John Harvey, in relation the arrest and imprisonment of Ebenezer S. Greely.

I have the honor to be, with high considerations,

Your obedient servant,

ROBERT P. DUNLAP.

His Excellency MARTIN VAN BUREN,
President of the United States.

GOVERNMENT HOUSE, FREDERICKTON, N. B.,

June 12, 1837.

SIR: Since I had the honor of addressing your excellency under date the 6th instant, announcing my assumption of the administration of this Government, a report has been laid before me by the warden of the disputed territory, a copy of which I feel it to be an act of courtesy towards your excellency to lose no time in communicating to you.

In including the territory within the limits of the British claim in the census which "Ebenezer Greely" appears to have been instructed to take of the population of the county of "Penobscot," he has evidently acted in ignorance or under a misconception of the subsisting relations betwixt England and the United States of America, which I cannot allow myself to doubt that your excellency will lose no time in causing to be explained and removed. Though necessarily committed to confinement, I have desired that every regard may be shown to Greely's personal convenience, consistent with the position in which he has "*voluntarily*" placed himself: I use this expression because, as your excellency will observe, Greely was informed by the warden that if he would desist from the act in which he was engaged and the language which he was holding to the people of the Madawaska settlement, (acts constituting not only an interference with the acknowledged rights of jurisdiction of this province but the positive exercise within its limits of actual jurisdiction, however unauthorized on the part of the State of Maine,) and would withdraw from this district, he should be allowed to do so, otherwise, that in the discharge of the duties imposed upon him by his office, he (the warden) who is in the commission of the peace, must be under the necessity of apprehending, in order to make him amenable to the laws of the province. This proposal Greely rejected, and was accordingly committed to jail, to be dealt with according to law. In the mean time, as an evidence of my desire to cultivate the most friendly understanding with the Government of the State of which Greely is a citizen, I lose no time in saying that, upon receiving an assurance from your excellency that your authority shall be exerted in restraining this or any other citizen of the State of Maine from adopting proceedings within the British limits, (as claimed,) calculated to infringe

the authority and jurisdiction of this province and to disturb and unsettle the minds of that portion of its inhabitants residing in the disputed territories, until the question in dispute be brought to a final settlement, Greely shall be immediately enlarged.

Trusting that your excellency will see in this proposition an anxious desire on my part to redeem the pledge given in my communication of the 6th instant,

I have the honor to be,

Your excellency's most obedient humble servant.

J. HARVEY,

M. G., Lt. Governor, &c.

His Excellency the GOVERNOR
of the State of Maine.

FREDERICKTON, NEW BRUNSWICK,

June 10, 1837.

MAY IT PLEASE YOUR EXCELLENCY: In obedience to your excellency's instructions, communicated to me through the Advocate General, in the absence of the Attorney and Solicitor Generals, I have now the honor to report, for the information of your excellency, that I proceeded with the least possible delay to the Madawaska settlement. On my arrival at the Great falls, one hundred and thirty miles from hence, I was informed that the American citizen, Ebenezer S. Greely, had passed up the day previous, for the purpose of again proceeding with the census of the inhabitants of Madawaska, under authority from the State of Maine. Aware of the probable excitement that would naturally arise between the two Governments from this circumstance, and at the same time fully convinced that his Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiation, I thought it advisable to call upon Mr. Coombs, a magistrate residing twelve miles above the falls, and request him to accompany me, which he readily did. to witness the conversation between Mr. Greely and myself.

We then proceeded, and overtook Mr. Greely a short distance above Green river, about twenty-four miles from the falls, having ascertained by the inhabitants, as he passed up the river, that Mr. Greely was the whole of the previous day employed in taking down their names, number of each family, and stating they would shortly receive from the State of Maine, a sum of money not exceeding three dollars for each head of family, out of the surplus revenue of the United States.

I required Mr. Greely to show me his instructions for exercising authority in Madawaska, when he handed me a document, a copy of which I beg to enclose to your excellency, and after perusing the same I returned it, with my opinion that I really thought he (Mr. Greely) had mistaken the intention of his instructions, as no allusion was made either to that settlement or the territory in dispute, and therefore, if he would then desist in taking the census, I would take no notice of what had passed. Moreover, in reply to my advice and request, he (Mr. Greely) remonstrated, and attempted to make it appear that he would be fully borne out by his Government in what he had done; and that it was also his intention to complete the census if he was not prevented. This reply I regret having left me no alternative but to make him a prisoner, which I did on

Wednesday the 7th instant. On Friday evening I arrived at Fredericktton, and this morning, (Saturday,) by the advice of the Advocate Generals, I committed him to the jail of the county of York.

I have the honor to be your excellency's
Most obedient, humble servant.
J. A. MACLAUCHLAN,
Warden of the disputed territory.

His Excellency Maj. Gen. Sir JOHN HARVEY,
Lieutenant Governor, &c.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, *June* 19, 1837.

SIR: I have the honor to enclose to your excellency the copy of a letter which came to hand by the last mail, by which it appears that Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska, has been arrested by the authorities of the province of New Bruswick, and is now incarcerated in the jail at Fredericktton.

In this state of things it becomes my painful duty to make this communication to your excellency, and to insist that prompt measures be adopted by the Government of the United States to effect the early release of the aforementioned citizen.

I have the honor to be,
With great respect, your obedient servant,
ROBERT P. DUNLAP.

His Excellency MARTIN VAN BUREN,
President of the United States.

FREDERICKTTON, PROVINCE OF NEW BRUNSWICK,
June 12, 1837.

SIR: On the 15th of May last, I was appointed by the county commissioners of Penobscot county to take the census of Madawaska. On the 6th of June instant, I was arrested by Mr. Maclauchlan, from this place, and committed to jail by him, and there I now remain in the prison at Fredericktton. I was committed on the 10th instant. I addressed a letter to you on the 10th, which has gone by the way of St. Andrew's. Fearing that letter will not arrive soon, I write again to-day by way of Houlton. I have described my arrest more particularly in my first letter, which you will undoubtedly receive before long; therefore, I only give the facts in this, having a chance, by the assistance of Mr. Lombard, of Hallowell, of forwarding this to Houlton privately. I was employed in business of the State, and do expect my Government will intercede and liberate me from prison in a foreign and adjacent province. I shall be pleased to receive a line from you expressing your opinion, direction, &c.

I remain, sir, respectfully,
Your obedient servant,
EBENEZER S. GREELY.

ROBERT P. DUNLAP, Esq.
Governor of Maine.

DEPARTMENT OF STATE,

Washington, June 26, 1837.

SIR: I have the honor, by direction of the President, to acknowledge the receipt of your letter to him of the 19th instant, enclosing the copy of a communication dated the 12th of the same month, addressed to you by Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska; from which it appears that he has been arrested by the authorities of the province of New Brunswick, and is now in confinement in the jail at Frederickton; and insisting that prompt measures be adopted by the Government of the United States to effect the early release of the above-named citizen.

The circumstances attending this outrage, as given in Mr. Greely's letter, are not sufficient, in the view of the President, to warrant the interference of the Government at present. For what cause, at what place, and by what authority, the arrest was made, is not stated. The necessary explanations may be found, perhaps, in the previous communication which Mr. Greely refers to as having been addressed to you by him on the 10th June; if not, it is probable that you will easily be able to obtain explicit information from other sources, and communicate it to this Department. It is indispensable that a full knowledge of all the facts illustrative of the case should be in possession of the Government before any formal application for redress can be properly preferred.

In the mean time, I have, in conversation, unofficially called the attention of Mr. Fox, the British minister at Washington, to this complaint, and he has given me an assurance that he will immediately address a representation on the subject to the Governor of New Brunswick, requesting, unless there shall be some very extraordinary reasons against it, that Mr. Greely may be set at liberty.

I am, sir, your obedient servant,

JOHN FORSYTH.

His Excellency ROBERT P. DUNLAP, Esq.,
Governor of Maine.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, *July* 3, 1837.

SIR: I have had the honor to receive yours of the 26th of June last, in which, by direction of the President, you indicate that the circumstances detailed in Mr. Greely's letter relative to his arrest and imprisonment are not of themselves, without further explanation, sufficient to justify the interference of the Government of the United States. This information is received with some surprise, and much regret: surprise, because I had understood Mr. Greely's communication to show, that while employed within the limits of this State, and under its authority, on a business intrusted to him by the laws of the State, he was, without being charged or suspected of any other offence, seized and transported to a foreign jail; regret, inasmuch as the feelings of the people of this State have been strongly excited by this outrage upon the honor and sovereignty of Maine; and each additional day's confinement which that unoffending citizen endures, is adding to the indignation of our citizens. I thereore hasten

to lay before you a summary of the transactions connected with this subject, as they are gathered from Mr. Greely's communications to this Department. The facts are to be considered the less indisputable, because they are in the main confirmed by the statements contained in the letter of the Lieutenant Governor of the province of New Brunswick, by whose order the imprisonment was made, and a copy of which I recently had the honor of transmitting to the President.

On the eighth day of March last, the Legislature of this State passed an act relative to the surplus revenue, a copy of which is enclosed, to the eleventh, twelfth, and thirteenth sections of which I beg leave to refer your attention. An additional act was passed on the 29th day of March last, a copy of which I also enclose. By this last-named act, it became the duty of the county commissioners of Penobscot county to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined comprised the town of Madawaska, which was incorporated by this State on the 15th of March, 1831. Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service; and being duly commissioned, he forthwith proceeded to the place designated, and entered upon the required operations. Being thus employed, he was, on the 29th day of May last, arrested by the authorities of the province of New Brunswick, and conveyed to Woodstock, in the county of Carleton, in said province; but the sheriff of the county refused to commit him to jail, and he was accordingly discharged. He immediately returned to the Madawaska settlements, to enter again upon the duty intrusted to him. On the 6th day of June last, he was arrested a second time by the same authorities, and committed to the jail at Frederickton. It is for this act of obedience to the laws of his Government, that Mr. Greely now lies incarcerated in a public jail in the province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, sir, to add my confident belief that the President, on this presentation of the facts relative to this outrage upon the National as well as the State rights, will not fail to demand the immediate release of Ebenezer S. Greely, and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him.

I am, very respectfully, your obedient servant,

ROBERT P. DUNLAP.

Hon. JOHN FORSYTH,
Secretary of State of United States.

An additional Act providing for the distribution and repayment of the public money apportioned to the State of Maine on deposite by the Government of the United States.

Sec. 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled*, That the time allowed to the respective cities, towns, and plantations, in which to take the census and make returns thereof to the State treasurer is hereby extended to the twentieth day of June next.

Sec. 2. *Be it further enacted*, That the treasurer is hereby directed to distribute the amount of the second instalment of the surplus revenue

among the cities, towns, and plantations, according to the number of their respective scholars, as borne on the school fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census required by the act to which this is additional shall be fully made, and the returns thereof to the treasurer completed, by the first day of July next.

Sec. 3. *Be it further enacted*, That the third and fourth instalments shall be distributed among the towns, plantations, cities, and unincorporated places, in such manner as that the aggregate of the four instalments shall be in exact proportion to their population, as ascertained by said census.

Sec. 4. *Be it further enacted*, That, in addition to the enumeration required by the act aforesaid to be taken by the county commissioners, it shall be the duty of the county commissioners of the county of Penobscot to take the enumeration or census of all the inhabitants of said county residing north of the surveyed and located townships.

Sec. 5. *Be it further enacted*, That the treasurer be directed to cause the first section of this act to be forthwith published in all the newspapers that publish the laws of the State.

Sec. 6. *Be it further enacted*, That the act to which this is additional, and also this act, shall take effect and be in force from the times of the passage thereof respectively.

[Approved by the Governor March 29, 1837.]

11th, 12th and 13th Sections of An Act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposite by the Government of the United States.

Sec. 11. *Be it further enacted*, That, for the purpose of ascertaining the population of the several cities, towns, and plantations, in this State, the aldermen of cities, the selectmen of towns, and the assessors of plantations, are hereby authorized, at the expense of their respective cities, towns, and plantations, to cause the number of the inhabitants thereof, (omitting in such enumeration foreigners not naturalized, whose residence has not been established at least four years in any of the cities, towns, or plantations, or other place wherein such enumeration is to be made, and Indians not taxed,) to be taken, according to the directions of this act. The said enumeration shall distinguish all persons under the age of four years; those of four and under twenty-one; and those of twenty-one and upwards, belonging to each city, town, and plantation in this State, on the first day of March, eighteen hundred and thirty-seven.

Sec. 12. *Be it further enacted*, That said aldermen, selectmen, or assessors, or such person or persons as shall be appointed by them for that purpose, shall respectively, before entering upon the performance of their duty as aforesaid, take and subscribe an oath or affirmation, before some justice of the peace, for the faithful performance of their duties, in substance as follows:

I, —— ——, of ——, do solemnly swear (or affirm) that I will truly and faithfully make a full and perfect enumeration and description of the persons resident within the —— of —— on the first day of March, eighteen hundred and thirty-seven, and return the same to the treasurer of

Maine, agreeably to the directions of an act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposite by the Government of the United States," according to the best of my ability; and that I will make said enumeration and description by actual inquiry at every dwelling-house in said —— or personal inquiry of the head of every family, and not otherwise.

Sec. 13. *Be it further enacted*, That said enumeration shall be fully completed, and accurate returns thereof made to the treasurer of the State, on or before the twentieth day of April next; which returns shall be made in a schedule, the form of which (with the form of the oath specified in this section) shall be provided and furnished by said treasurer, and they shall distinguish the several families by the name of their master, mistress, or head. And the person taking such enumeration shall take and subscribe upon the returns rendered by him, an oath or affirmation as follows:

I, —— ——, do solemnly swear (or affirm) that the number of persons set forth in the return made by me, agreeably to the provisions of the act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposite by the Government of the United States," has been ascertained by an actual inquiry at every dwelling-house, or a personal inquiry of the head of every family, in conformity with the provisions of said act; and that the return aforesaid is correct and true, according to the best of my knowledge and belief.

A B.

And the blank forms which the treasurer is to transmit shall be forwarded to the sheriffs of the respective counties, whose duty it shall be to cause the same to be forthwith distributed to the clerks of the respective cities, towns, and plantations. And the sheriff's bill therefor shall be presented to the Legislature for allowance.

Department of State,

Washington, July 14, 1837.

Sir: Your letter of the 3d instant has been received. The surprise you express that the information contained in the letter of Mr. Greely, which accompanied your former communication, was not considered sufficient to enable the President to make a formal application to the British Government for his release, has probably arisen from your not having adverted particularly to the defects of his statement. It was not expressly mentioned for what offence the arrest was made, nor where it took place, upon the territory in dispute between the United States and Great Britain, or beyond it. The character of the charge and the place at which the offence was committed might have been inferred from what was stated; but you must perceive the impropriety of a formal complaint from one Government to another founded upon inference, when the means of ascertaining and presenting the facts distinctly were within the power of the party complaining. But although this Department felt itself constrained by these considerations to delay a formal application to the British Government for the release of Mr. Greely, it lost no time, as has been already stated, in procuring the interference to that end of the British minister near this Government; and I have now the satisfaction to inform you that

I have learnt from him that he has opened a correspondence with the Lieutenant Governor of New Brunswick, which it is expected will lead to the release of Greely from confinement, without waiting for the decision of his Britannic Majesty's Government on the whole question.

The information communicated to the Department since the receipt of your letter of the 3d instant, is sufficiently explicit, and a note founded upon it has been, by direction of the President, addressed to Mr. Stevenson, instructing him to demand the immediate liberation of Mr. Greely, and indemnity for his imprisonment.

I have the honor to be, sir,
Your obedient servant,
JOHN FORSYTH.

Hon. ROBERT P. DUNLAP,
Governor of the State of Maine.

P. S. The papers asked for in your letter of the 27th ultimo will be sent to you.

STATE OF MAINE.

EXECUTIVE DEPARTMENT,
Augusta, June 27, 1837.

SIR: I would respectfully solicit copies of all documents and papers in the Department of State of the United States, in relation to the subject of the Northeastern boundary, with the exception of such as were furnished this Department by the General Government in the year 1827. It is understood that copies have been furnished relative to this subject down to the respective statements submitted by the two Governments to the King of the Netherlands, but the arguments we have not been furnished with.

I am, very respectfully, your obedient servant,
ROBERT P. DUNLAP.

Hon. JOHN FORSYTH,
Secretary of State of the United States.

DEPARTMENT OF STATE,
Washington, July 19, 1837.

SIR: In compliance with the request contained in your letter of the 27th ultimo, I have the honor to transmit to you a printed volume, containing a statement on the part of the United States of the case referred, in pursuance of the convention of the 29th September, 1827, between the said States and Great Britain, to the King of the Netherlands for his decision thereon, and to refer you, for such other papers and documents in relation to the Northeastern boundary as have not been specially furnished by this Department to the Executive of Maine, to the following numbers in the volumes of documents of the Senate and House of Representatives, distributed under a resolution of Congress, and which have been from time to time transmitted to the several State Governments, including that of Maine.

Documents of the House of Representatives.

1st session 20th Congress, No. 217, 218.
2d session 20th Congress, No. 90.
2d session 23d Congress, No. 62.

Documents of the Senate.

1st session 24th Congress, No. 414.

I have the honor to be, sir,
Your obedient servant,

JOHN FORSYTH,
Secretary of State

Hon. ROBERT P. DUNLAP,
Governor of Maine.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, *July* 28, 1837.

SIR: Impelled by a sense of duty, arising from the oversight committed to me of the rights and interests of this State, I beg leave to invite the attention of your excellency to the subject of the Northeastern boundary of Maine. By the Federal compact, the obligation of defending each State against foreign invasion, and of protecting it in the exercise of its jurisdictional rights up to its extreme line of boundary, is devolved upon the National Government. Permit me respectfully to inform the President that, in the opinion of the people of Maine, the justice due to this State, in this respect, has not been rendered.

Let it not be suspected that the discontents which are moving strongly and deeply through the public mind, flow from any deficiency of attachment or practical adhesion to our National Government. Without appealing to the blood so freely poured out in war by the citizens of Maine; to the privations so cheerfully endured while the restrictive measures of the Government were prostrating the most important interests of this commercial people, or to the support of the Union so cordially given through every vicissitude up to the present hour: such a suspicion, if it could arise, would be sufficiently refuted by merely adverting to the forbearance with which they have so long endured the aggressions by a foreign Government upon their sovereignty, their citizens, and their soil.

It would be easy to prove that the territory of Maine extends to the highlands north of the St. John. But that point, having been not only admitted but successfully demonstrated by the Federal Government, needs not now to be discussed. Candor, however, requires me to say that this conceded and undeniable position ill accords with the proceedings in which the British authorities have for many years been indulged, and by which the rightful jurisdiction of Maine has been subverted, her lands ravaged of their most valuable products, and her citizens dragged beyond the limits of the State, to undergo the sufferings and ignominies of a foreign jail. These outrages have been made known to the Federal Government, they have been the subject of repeated remonstrances by the State, and these remonstrances seem as often to have been contemned. It cannot be deemed irrelevant for me here to ask, amid all these various impositions, and while Maine has been vigorously employed in sustaining the Union

and in training her children to the same high standard of devotion to the political institutions of the country, what relief has been brought to us by the Federal Government? The invaders have not been expelled. The sovereignty and soil of the State are yet stained by the hostile machinations of resident emissaries of a foreign Government. The territory and the jurisdiction of six millions of acres, our title to which the Government of the United States has pronounced to be perfect, have, without the knowledge of Maine, been once put entirely at hazard. Grave discussions, treaty arrangements, and sovereign arbitration have been resorted to, in which Maine was not permitted to speak, and they have resulted, not in removing the factitious pretensions, but in supplying new encouragements to the aggressors. Diplomatic ingenuity, the only foundation of the British claim, has been arrayed against the perfect right.

In the mean time a stipulation made by the Executive of the nation, without the knowledge of Maine, purported to preclude her from reclaiming her rightful jurisdiction until the slow process of a negotiation should be brought to a close. Whatever the real force of that stipulation might be, made as it was without the concurrence of the two branches of the treaty-making power, it was hoped, when it expired by the closing up of that negotiation, that a measure fraught with such hurtful consequences to Maine would not again be attempted. But that hope was to be disappointed, and now, by a compact of similar character, a writ of protection appears to have been spread by our own Government over the whole mass of British aggressions. What then has the Federal Government done for this State? May it not be said, in the language of another, "Maine has not been treated as she endeavored to deserve."

On the twenty-second day of April last, I had the honor to transmit to your excellency certain resolves passed by the Legislature of this State, relative to the Northeastern boundary, and, in behalf of the State, to call upon the President of the United States to cause the line to be explored and surveyed, and monuments thereon erected. That this call, made by direction of the Legislature, did not extend to the expulsion of invaders, but merely to the ascertainment of the treaty line, will, I trust, be viewed as it was designed to be, not only as an evidence of the continued forbearance of Maine, but as a testimonial of the confidence she cherished that the Federal Executive would protect the territory, after its limitation should be ascertained. That this application would meet with favor from the Federal Executive was expected, more especially as Congress had made a specific appropriation for the purpose. I will not attempt to conceal the mortification I have realized, that no reply has been made to that communication, nor any measures taken, so far as my information extends, for effecting the object proposed.

It now remains, that in the exercise of that faithfulness for which I stand solemnly pledged to the people of Maine, I should again commend to the attention of the National Executive this apparently unwelcome but really important subject.

I have therefore the honor again to request that the President will cause the treaty line upon the northeastern limits of Maine to be run and marked, and I cannot but hope that, on a re-examination of the subject, your excellency will concur with this State in relation to the rightfulness and the necessity of the measure proposed, as well as to all the remedies to be

adopted for restoring to Maine the invaluable rights from which she has so long been debarred.

I have the honor to be,
With high consideration,
Your obedient servant,
ROBERT P. DUNLAP.

To his Excellency MARTIN VAN BUREN,
President of the United States.

DEPARTMENT OF STATE,
Washington, August 17, 1837.

SIR: Your letter of the 28th ultimo, to the President, was duly received. It has been referred to this Department, with instructions to make a suitable reply.

Your excellency is of opinion that the Federal Government has, for a series of years, failed to protect the State of Maine in the exercise of her jurisdictional rights to the extent of her boundary, and complains that these rights have been, in consequence thereof, subverted, the lands of the State ravaged of their most valuable productions, and her citizens subjected to imprisonment in a foreign jail. Your excellency particularly objects to the course of the Federal Government for having, without the knowledge of the State, put entirely at hazard the title of Maine, admitted by the Government of the United States to be perfect, to the territory in question, by the resort to diplomatic discussions, treaty arrangements, and foreign arbitration, in which Maine was not permitted to speak; for having entered into a stipulation, without her consent, purporting to preclude the State from retaining her rightful jurisdiction, pending a negotiation, and for the continuance of it after that negotiation was supposed to have been concluded; and for an omission, on the part of the Executive of the United States, to comply with an application of the State, made through her Legislature, to have the boundary line between Maine and the British North American possessions explored, surveyed, and monuments erected thereon, in pursuance of the authority conferred on the President by Congress, and of a request made by your excellency, which is now renewed.

The views which your excellency has been pleased to take of the subject at this time, embrace measures, some of which have long since ceased to be operative, and reach back to the propriety of the stipulations entered into by the treaty of Ghent; also, of the subsequent negotiation designed to bring those stipulations to a satisfactory result, in the mode prescribed by that treaty—that of arbitrement. It being, as your excellency states, the opinion of Maine that those proceedings were unjust and unwise, it is, in a matter in which she is so deeply interested, her undoubted right to say so; yet the President thinks that he cannot be mistaken in believing that no practical good can, at this time, be expected from discussion between the Federal and State Governments upon those points. That the measures referred to have not been as fortunate in their results as was hoped, is entirely true, but your excellency may nevertheless be assured that they had their origin in a sincere desire, on the part of the Federal Government, to discharge all its duties towards the State of Maine as a member of the Union, and were resorted to in the full belief that her just rights would be promoted by their adoption.

In speaking of the restrictions imposed upon Maine in reclaiming her rightful jurisdiction, your excellency doubtlessly refers to the understanding between the Federal Government and that of Great Britain, that each party should abstain from the exercise of jurisdiction over the disputed territory during the pendency of negotiation. Unless it be correct to say that the controversy was one that did not admit of negotiation, and that the duty of the Federal Government consisted only in an immediate resort to maintain the construction put by itself upon its own rights and those of the State of Maine, there would seem to be no reasonable objection to such an arrangement as that alluded to, whether it be viewed in respect to the interests or the pacific and just characters of the respective Governments. That this arrangement was not abrogated at the period at which your excellency is understood to suppose that it ought to have been done, viz : upon the failure of a settlement of the controversy by arbitration, is explained by events of subsequent occurrence. When the award of the arbitrator was submitted by the late President to the Senate of the United States, that body refused its advice and consent to the execution of the award, and passed a resolution recommending to him to open a new negotiation with Great Britain for the ascertainment of the boundary according to the treaty of peace of 1783. That negotiation was forthwith entered upon by the Executive, is still pending, and has been prosecuted with unremitting assiduity. It is under such circumstances that the Federal Executive has decided upon a continued compliance with the arrangement referred to, and has insisted also upon its observance on the part of Great Britain.

Considerations of a similar nature have induced the President to refrain hitherto from exercising the discretionary authority with which he is invested, to cause the boundary line in dispute to be explored, surveyed, and monuments to be erected thereon. Coinciding with the Government of Maine on the question of the true boundary between the British provinces and the State, the President is yet bound by duty to consider the claim which has been set up by a foreign Power in amity with the United States, and the circumstances under which the negotiation for the adjustment of that claim has been transmitted to him. It could not be useful to examine the foundation of the British claim in a letter to your excellency. Respect for the authorities of a friendly nation compels us to admit that they have persuaded themselves that their claim is justly grounded. However that may be, the present President of the United States, upon entering on the discharge of the duties of his office, found that a distinct proposition had been made by his predecessor for the purpose of amicably settling this long-disputed controversy, to which no answer has yet been received. Under such circumstances, the President was not able to satisfy himself, however anxious to gratify the people and the Legislature of Maine, that a step like that recommended by them could be usefully or properly taken.

The clause containing the specific appropriation made by the last Congress, for exploring, surveying, and marking certain portions of the Northeastern boundary of the United States, to which your excellency alludes, is by no means imperative in its character. The simple legislative act of placing a sum of money under the control of the Executive for a designated object, is not understood to be a direction that it must in any

event be immediately applied to the prosecution of that object. On the contrary, so far from implying that the end in view is to be attained at all hazards, it is believed that it merely vests a discretionary power in the President to carry out the views of Congress, on his own responsibility, should contingencies arise to render expedient the proposed expenditure.

Under existing circumstances, the President deems it proper to wait for the definitive answer of the British Government to the last proposition offered by the United States: when received, a further communication to your excellency may be found proper; and if so, will be made without unnecessary delay.

It cannot be necessary to assure your excellency that the omission to reply to your communication forwarding to this Department the resolutions of the Legislature of Maine, did not, in any degree, arise either from a want of respect for their wishes, or for the wishes of your excellency, or from indifference to the interests of the State. When these resolutions were received, there was every reason at no distant day to expect what is now daily looked for, a definitive answer to the proposition just alluded to, to which the attention of the British Government had been again forcibly invited about the time those resolutions were on their passage. Under this expectation, a reply to the application from Maine was temporarily delayed; the more readily, as, about the time of its reception, the Representatives of Maine, acting in reference to one of those resolutions, had a full and free conversation with the President. The most recent proceedings relative to the question of boundary were shown to them in this Department by his directions, and the occasion thus afforded was cheerfully embraced of offering frank and unreserved explanations of the President's views.

Of the recent events which have called the attention of the State of Maine to the question of the Northeastern boundary, and which have been brought by it to the notice of the President, one, the arrest and imprisonment of Mr. Greely, has already been made the subject of communication with your excellency. All that it was competent for the Federal Executive to do, has been done. Redress has been demanded, will be insisted upon, and is expected, from that authority from whom alone redress can properly be sought. The President has followed the same course that was pursued by one of his predecessors, and which was understood to be satisfactory to the State of Maine under circumstances of a somewhat similar character. In respect to the other—the projected construction of a railroad between St. Andrew's and Quebec—a representation has been addressed to the British Government, stating that the proposed measure is inconsistent with the understanding between the two Governments to preserve the *status quo* in the disputed territory until the question of boundary be satisfactorily adjusted, remonstrating against the project as contrary to the American claim, and demanding a suspension of all further movements in execution of it. No answer has yet been received to this communication. From an informal conversation between the British minister at Washington and myself, at the Department of State, the President is, however, firm in the conviction that the attempt to make the road in question will not be farther prosecuted.

I am, in conclusion, directed to inform you that, however unbounded

may be the confidence of the Legislature and people of Maine in the justice of their claim to the boundary contended for by the United States, the President's is not less so; and your excellency may rest assured that no exertions have been, or shall be, spared on his part, to bring to a favorable and speedy termination a question involving interests so highly important to Maine and to the Union.

I have the honor to be, with high consideration, &c.

JOHN FORSYTH.

His Excellency Robert P. Dunlap,
Governor of Maine.

Department of State,

Washington, August 25, 1837.

Sir: I have the honor to transmit to your excellency, by direction of the President, the copy of a note from the British minister at Washington, dated yesterday, stating that the Government of her Britannic Majesty has been pleased to direct the immediate discontinuance, by the colonial authorities of Lower Canada and New Brunswick, respectively, of all operations connected with the projected railroad between the cities of Quebec and St. Andrew's.

Mr. Fox took occasion, on Wednesday last, to inform me that Mr. Greely had been discharged from imprisonment at Frederickton; a fact of which, doubtlessly, your excellency has been sometime since apprized.

I have the honor to be, with high consideration, &c.

JOHN FORSYTH.

His Excellency Robert P. Dunlap,
Governor of Maine.

Department of State,

Washington, *March* 23, 1837.

The undersigned, Secretary of State of the United States, has the honor, by direction of the President, to invite the attention of Mr. Fox, his Britannic Majesty's envoy extraordinary and minister plenipotentiary, to a subject which, from its high importance, demands the prompt consideration of his Majesty's Government.

It appears from representations and documents recently received at the Department of State, that a number of inhabitants of the town of St. Andrew's, in New Brunswick, associated themselves together, in the year 1835, by the name of the St. Andrew's and Quebec Railroad Association, for the purpose of bringing into public notice the practicability of constructing a railway between those ports; and that sundry resolutions were passed in furtherance of this object; that the project was sanctioned and patronised by the Governor-in-chief of British North America, the Lieutenant Governors of New Brunswick and Nova Scotia, and the Legislatures and people of the provinces of Lower Canada and New Brunswick; that the route of the proposed railroad had been explored as far as the head-waters of the St. John river by surveyors employed by the association; that an act has actually passed the Legislature of New Brunswick incorporating this company; and that a similar act was expected to

be passed in Lower Canada; that letters were addressed to the boards of trade of Quebec and Montreal, requesting their co-operation; that these communications were favorably received; and that petitions had been forwarded to his Britannic Majesty, signed by committees of the association and by inhabitants of the cities of Quebec and Montreal, soliciting the construction of a railway between the ports abovenamed, or the extension of royal aid and protection to the petitioners in the proposed undertaking.

Without allowing himself for a moment to believe that his Britannic Majesty's Government will in any manner countenance the projected railroad from St. Andrew's to Quebec, when the slightest inspection of the map of the country which it crosses will show that its intended location would be, for a great portion of the route, an encroachment upon the territory in dispute between the United States and Great Britain, the President yet sees cause for painful surprise and deep regret in the fact that the civil authorities of his Majesty's provinces on our Northeastern borders should have lent their encouragement to, or should, in anywise, have promoted an undertaking which, if persevered in, will inevitably lead to the most disastrous consequences. The object of the association, from its inception, was objectionable; since it could only be effected by entering upon territory the title to which was controverted and unsettled; a proceeding which could not fail to be offensive to the Government and people of the United States. Still more unjustifiable was the act of sovereignty giving to this company corporate powers over property known to be claimed by citizens of a friendly and neighboring State, and which constituted at the time the subject of an amicable negotiation between the Government of his Mjesty and that of the United States. The President regrets to see in this step on the part of his Majesty's provincial authorities and subjects, a most exceptionable departure from the principle of continuing to abstain, during the progress of negotiation, from any extension of the exercise of jurisdiction within the disputed territory on either side; the propriety of which has been hitherto so sedulously inculcated and so distinctly acquiesced in by both parties. An understanding that this principle should be observed by them, was the natural result of the respective positions and pacific intentions of the two Governments, and could alone prevent the exercise of asserted rights by force. Without it, the end of all negotiation on the subject would have been defeated. If, therefore, nothing had been said by either party relative to such an understanding, it would have been proper to infer that a tacit agreement to that effect existed between the two Governments. But the correspondence between them is sufficiently full and explicit to prevent all misconception. The views of both Governments in respect to it will be found in the letters of the Secretary of State to the minister of Great Britain, dated the 18th of January, 1826, 9th of January, 11th of March, and 11th of May, 1829; and of the British minister to the Secretary of State, dated 15th of November, and 2d of December, 1825; 16th of January, 1827; 18th of February and 25th of March, 1828; and 14th of April; 1833, as well as in other communications, which it is deemed needless now to designate.

The undersigned is directed by the President to inform Mr. Fox that the prosecution of the enterprise above referred to will be regarded by this Government as a deliberate infringment of the rights of the United States to the territory in question, and as an unwarrantable assumption of jurisdic-

tion therein by the British Government; and the undersigned is instructed to urge the prompt adoption of such measures as may be deemed most appropriate by his Majesty's Government, to suspend any further movements in execution of the proposed railroad from St. Andrews to Quebec, during the continuance of the pending negotiations between the two Governments relative to the Northeastern boundary of the United States.

The proceedings above alluded to, considered in connexion with incidents on other parts of the disputed boundary line, well known to his Majesty's ministers, would seem to render it indispensable to the maintenance of those liberal and friendly relations between the two countries which both Governments are so sincerely anxious to preserve, that they should come to a speedy adjustment of the subject. The recent resolutions of the State of Maine, to which the projected railroad from St. Andrew's to Quebec gave rise, requesting the President of the United States to cause the line established by the treaty of 1783 to be run, and monuments to be established thereon, and the appropriation of $20,000 by Congress, at their late session, to enable the Executive to carry that request into effect, with a subsequent earnest application from the Representatives of Maine for an immediate compliance with it, afford additional incentives to exertion to bring this controversy to a conclusion, not to be disregarded by the President of the United States.

The President, therefore, awaits with great anxiety the decision of his Majesty's Government on the proposition made by the undersigned to his Majesty's chargé d'affaires at Washington, in February, 1836, suggesting the river St. John's from its mouth to its source, as an eligible and convenient line of boundary. No small degree of disappointment has been felt that this decision, already long expected, has not been given; but the hope is entertained that the result of this protracted deliberation will prove favorable to the wishes of the President; and that, even if that proposition be not acceded to by his Britannic Majesty, some definitive offer, looking to a prompt termination of the controversy, will be made without further delay.

The undersigned avails himself of this occasion to renew to Mr. Fox the assurance of his distinguished consideration.

JOHN FORSYTH.

HENRY S. FOX, Esq.
Minister Plenipotentiary, &c.

WASHINGTON, *March* 28, 1837.

The undersigned, his Britannic Majesty's envoy extraordinary and minister plenipotentiary, has had the honor to receive the official note, addressed to him under date of the 23d instant, by Mr. Forsyth, Secretary of State of the United States, upon the subject of information received by the United States Government of a projected railroad between the cities of Quebec and St. Andrew's, and upon certain other matters connected with the question of the boundary line between the United States and the British possessions in North America.

The undersigned, in accordance with the wishes of the President, signified in Mr. Forsyth's official note, will not fail immediately to convey that

note to the knowledge of this Government at home; and he entertains no doubt that his Majesty's Government will proceed to the consideration of the several matters therein contained, with the serious and ready attention that their importance deserves.

The undersigned avails himself of this occasion to renew to Mr. Forsyth the assurance of his high esteem and consideration.

H. S. FOX.

Hon. JOHN FORSYTH, *Secretary of State.*

WASHINGTON, *August* 24, 1837.

SIR: With reference to the official note which, by direction of the President, you addressed to me on the 23d of March last, respecting a projected railroad between the cities of Quebec and St. Andrew's, which, it was apprehended, would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you that, in consideration of the arguments and observations contained in your note, her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick, respectively, to cause all operations connected with the above-mentioned project, within the limits of the disputed territory, to be immediately discontinued.

I have the honor to be, sir, with high respect, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *Secretary of State.*

Mr. Stevenson to Lord Palmerston.—Extract.

The undersigned will avail himself of the occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long-pending controversy, [respecting the Northeastern boundary,] and the increased obstacles which will be thrown in the way of its harmonious settlement by these repeated collisions of authority, and the exercise of exclusive jurisdiction by either party within the disputed territority.

He begs leave, also, to repeat to his lordship assurances of the earnest and unabated desire which the President feels, that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the undersigned had been led to believe would long since have been given; and he has been further directed to say, that should this proposition be disapproved, the President entertains the hope that some new one, on the part of her Majesty's Government, will immediately be made for the final and favorable termination of this protracted and deeply-exciting controversy.

The undersigned begs Lord Palmerston to receive renewed assurances of his distinguished consideration.

A. STEVENSON.

23 PORTLAND PLACE, *August* 10, 1837.